



SUPERIOR COURT OF SAN MATEO COUNTY
 400 County Center 1050 Mission Road
 Redwood City, CA 94063 South San Francisco, CA 94080
 www.sanmateocourt.org

Minute Order

**SIX4THREE, LLC, A DELAWARE LIMITED LIABILITY COMPANY vs.
 FACEBOOK, INC, A DELAWARE CORPORATION, et. al.**

CIV533328

05/10/2019 9:00 AM
 Case Management Conference
Hearing Result: Held

Judicial Officer: Swope, V. Raymond
Courtroom Clerk: Rebecca Huerta

Location: Courtroom 8A
Courtroom Reporter: Geraldine Vandeveld

Parties Present

KIM, CATHERINE Y.	Attorney
LERNER, JOSHUA H	Attorney
LEVERONI, JOSEPH STEPHEN	Attorney
MEHTA, SONAL N	Attorney
MILLER, LAURA E.	Attorney
SARGENT, CHRISTOPHER	Attorney

Exhibits

Minutes

Journals

- Also present JAMES MURPHY & JOSEPH LEVERONI appeared on behalf of David Godkin and Birnbaum & Godkin.
 Also present DONALD SULLIVAN appeared on behalf of Stuart G Gross.
 Also present NATALIE NAGLE in house counsel for Facebook, et al.
 Also present CHRISTOPHER SARGENT on behalf of Third Party Theodore Kramer & Thomas Scaramellino.

At 9:07 a.m. - Court convenes.

The Court announces its oral tentative ruling on Ex Parte Application to Stay Discovery filed by Birnbaum & Godkin:

The Court stays discovery as a consequence of Six4Three, LLC's not being represented by counsel. A corporation cannot appear in pro persona.

Birnbaum & Godkin's request for clarification of the Crime-Fraud exception to the Attorney-Client Privilege between Six4Three's former counsel and Mr. Kramer, etc. is DENIED AS MOOT in light of the Court's previous order staying discovery until Six4Three secures new counsel.

Further, the Ex Parte request for clarification of the scope of the waiver of Attorney-Client Privilege due to the crime exception, is NOT proper forum or procedure for seeking such relief. The appropriate procedure for such relief is a formal noticed
 a) Motion for reconsideration

- B) Formal Notice motion for clarification of order OR
- C) A formal noticed motion for protective order

Also, there are no exigent circumstances to seek such ex parte relief.

Finally, the Murphy_Pearson firm has made multiple representations that the firm was intending to file a writ. Given the stay of discovery, this issue is not ripe for appellate relief, as there has been no formal hearing on a notice motion concerning clarification of the orders of March 15, 2019, page 4, lines 6 and 7.

Therefore, the Court will not hear or address the merits of the clarification request.

The Court will not and shall not pay for any of the storage costs with the order retaining Vestigant. The Court further vacates its previous order Facebook paying for the storage of data. The Court asks Facebook if they will stipulate to pay the storage costs. Facebook stipulates it will pay for the storage costs subject to recuperating the costs in a formal notice motion in the future as to Six4Three LLC , Mr. Kramer or other parties.

Court takes judicial notice of Amended Order on : (1) Facebook's motion to seal, filed January 8 and May 3 and 30; (2) The Guardian and CNN'S motion to unseal judicial records; and (3) The New York Times, Associated Press, and Washington Post's Motion to unseal, issued on November 1, 2018.

The Court orders parties to meet and confer regarding preparation of declaration in compliance with the November 1, 2018. The revised declaration caption will be "Revised Declaration of David S. Godkin in Opposition to Defendants' Special Motions to Strike (ANTI-SLAPP), filed May 17, 2018, pursuant to the Amended Order on the Motions to Seal and Unseal, issued on November 1, 2018."

The Court orders all parties to cease and desist in violating the protective order issued October 25, 2016.

Parties present oral argument.

Having read and considered oral argument the Court adopts its oral tentative ruling.

Mr. Murphy shall prepare formal order consistent with order herein.

Mr. Lerner requests a continuance of the June 28, 2019 Case Management hearing.

The Court shall advance the hearing to June 7, 2019 at 2:00 p.m.

The Court orders Facebook's counsel to prepare the order for the continuance/advancing of the Case Management Conference.

Mr. Russo's firm shall, by this Court's order, furnish Mr. Kramer's contact address/mailing or service address for the service of the new Case Management Conference hearing.

At 10:25 a.m.-Court adjourned.

Case Events

Others

Comments:

Future Hearings and Vacated Hearings

Canceled: June 07, 2019 2:00 PM Case Management Conference

Reason: Canceled as the result of a hearing cancel, Hearing Canceled Reason: Off Calendar
Swope, V. Raymond

June 07, 2019 2:00 PM Case Management Conference
Swope, V. Raymond

June 28, 2019 2:00 PM Complex Case Status Conference
Swope, V. Raymond

July 19, 2019 2:00 PM Motion to Seal
Swope, V. Raymond

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